

ATTORNEY DOCKET NO. 53394.000549

SERIAL NO. 10/046,280

AMENDMENT IN RESPONSE TO JULY 26, 2005 OFFICE ACTION

### **III. REMARKS/ARGUMENTS**

#### **A. Status of the Claims**

Claims 1-56 are pending in the application, of which claims 1-31 [renumbered claims 1-33] were elected, and claims 32-56 [renumbered claims 34-58] were withdrawn from further consideration on the merits. Claims 31-31 stand objected to, and claims 1-33 stand rejected by the Examiner. By this amendment claims 1 and 18 are amended, and claims 31-31 are renumbered as claims 31-33. No new matter is added. Applicants respectfully request reconsideration of the rejections of 1-33 for at least the following reasons.

#### **B. Claim Objections**

The Office Action objects to the claims for misnumbering—the Examiner renumbered claims 31-31 as claims 31-33. Applicants have included this renumbering in the current listing of the claims. Accordingly, Applicants also renumbered withdrawn claims 32-56 as claims 34-58, and amended the claims to indicate their proper dependencies.

#### **C. Claim Rejections**

##### **1. Claim Rejections under 35 U.S.C. § 102**

Claims 1-33 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,832,905 to Delzer, et al. ("Delzer '905 "). The Applicants respectfully submit that Delzer is not prior art under 35 U.S.C. § 102(e), which is explicitly limited to references "filed in the United States before the invention thereof by the applicant." 35 U.S.C. § 102(e). The application that matured into Delzer '905 was filed on January 16, 2002, the same date that the present application was filed. In addition, Delzer '905 does not claim priority to any other U.S. or foreign application that would entitle it to the benefit of an earlier effective filing date. Therefore, the Delzer

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'905 reference is not prior art under § 102(e), because it was not filed before the present application. Applicants respectfully request withdrawal of this ground of rejection.

2. Claims Rejections under 35 U.S.C. § 103

Claims 1-2, 4-6, 10, 17-20, and 24-25 stand rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 5,807,364 to Hansen ("Hansen") in view of U.S. Patent No. 4,100,984 to Klopfenstein, et al. ("Klopfenstein"). Applicants respectfully traverse this rejection for at least the following reasons.

Independent claims 1 and 18 are hereby amended to include "an apparatus adapted to provide a supply of fibrous material comprising an opened tow of continuous crimped fibers." This amendment is supported by the specification, for example, at page 21, at lines 14-16, where the Applicants state that "improved absorbent articles are advantageously based upon continuous crimped filament tow," and at page 30, where the Applicants provide that "The tow supply 302 enters the forming jet assembly 304 and is opened in preparation for being incorporated into absorbent cores" (page 30, lines 7-9) and "Other devices and procedures for opening the tow supply 302 may also be used with the present invention" (page 30, lines 18-20). Therefore, no new matter is presented by this amendment.

Three criteria must be met to establish a prima facie case of obviousness: (1) there must be some suggestion or motivation to modify the reference or to combine reference teachings, (2) there must be a reasonable expectation of success, and (3) the prior art references must teach or suggest all the claim limitations. *See* MPEP § 2142 *et seq.* Applicants respectfully submit that the references fail to teach or suggest all of the claim limitations because they fail to teach an apparatus for depositing particulate matter to a supply of fibrous material comprising, inter alia, an apparatus adapted to provide a supply of fibrous material comprising an opened tow of continuous crimped fibers, as recited in the pending claims.

Hansen discloses depositing and adhering particulate materials to a roll or bale of individualized (defiberized) fibers. Hansen, col. 7, lines 51-59, col. 8, lines 38-51. Hansen also discloses an apparatus for an end user to deposit particulate materials to refiberized fibers, where the apparatus includes a mechanism (item 72) that "typically comprises a metering mechanism, although any suitable device for adding particles to fibrous materials may be used." *Id.* at col. 8, line 61 - col. 9, line 12. Hansen discloses that the fibers are preferably cellulosic or synthetic fibers. *Id.* at col. 10, lines 33-35. Suitable fibers include wood pulp fibers, or other natural or synthetic fibers having a functional group capable of forming a hydrogen bond. *Id.* at col. 10, line 39, col. 11, lines 30-36. However, Hansen does not teach or suggest an apparatus to supply or apply particulate materials to an opened tow of continuous crimped fibers, as recited in the present claims. In Hansen, the fibers to which the particulate material is applied are individualized, as opposed to continuous. For example, the fibers are defiberized or refiberized, such as by using an a hammermill. *Id.* at col. 7, lines 57-59, col. 8, line 56 - col. 9, line 4. The fibers are preferably elongated, but Hansen only contemplates an aspect ratio of about 10:1 to 5:1. *Id.* at col. 10, lines 54-56. Hansen completely fails to disclose the application of particulate material to continuous crimped fibers, much less an apparatus to supply an opened tow of continuous crimped fibers.

The disclosure of Klopfenstein is insufficient to cure the deficiency of Hansen. Klopfenstein discloses an apparatus for controlling the feed rate of material into a receptacle such as a weigh bucket. The apparatus includes a vibrating feed tray (item 2). By vibrating the feed tray, material is conducted along the surface of the tray to the edge of the tray, where it feeds into the receptacle. Klopfenstein, col. 4, lines 13-17. The material feed may be stopped by stopping the vibration of the tray. *Id.* at col. 4, lines 37-41. However, Klopfenstein does not teach or suggest an apparatus to supply or apply particulate materials to an opened tow of continuous crimped fibers, as recited in the

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present claims. Rather, Klopfenstein is directed toward an apparatus for filling packages with material. *Id.* at col. 1, lines 6-9.

In contrast to Hansen and Klopfenstein, the present claims recite an apparatus for the application of particulate materials to a supply of fibers, that includes an apparatus adapted to provide an opened tow of continuous crimped fibers. The claimed apparatus further includes a vibratory feed tray is adapted to deposit particulate material onto this supply of continuous crimped fibers. The benefit of the claimed apparatus is that it permits the controlled deposition of particulate matter, such as a superabsorbent, into an absorbent core. *See* Application, page 7, lines 17-27.

The Applicants respectfully submit that claims 1-2, 4-6, 10, 17-20, and 24-25 are patentable over Hansen in view of Klopfenstein, because the cited references fail to teach or suggest an apparatus for depositing particulate matter into a supply of fibrous material comprising, inter alia, an apparatus adapted to provide a supply of fibrous material comprising an opened tow of continuous crimped fibers, as recited in the pending claims. Therefore, the Applicants respectfully request that the Examiner reconsider and withdraw these claim rejections.

ATTORNEY DOCKET NO. 53394.000549

SERIAL NO. 10/046,280

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Applicants believe that no fees are necessary in connection with the filing of this document. In the event any fees are necessary, please charge or credit any such fees, including fees for any extensions of time, to the undersigned's Deposit Account No. 50-0206. Should any outstanding issues remain, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,  
HUNTON & WILLIAMS LLP

Dated: Oct. 26, 2005

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